

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MARK NUNEZ, ET AL.

Plaintiffs,

-against-

THE CITY OF NEW YORK, ET AL.

Defendants.

Case No. 11-cv-5845 (LTS)

**DECLARATION OF MARY LYNNE WERLWAS  
IN SUPPORT OF PLAINTIFF'S MOTION FOR CONTEMPT AND  
APPLICATION FOR APPOINTMENT OF A RECEIVER**

I, Mary Lynne Werlwas, under penalty of perjury, pursuant to 28 U.S.C. § 1746, declares that the following is true and correct:

1. I am an attorney licensed to practice law in the State of New York and admitted to practice in this Court. I am Director of the Prisoners' Rights Project at The Legal Aid Society, counsel for the Plaintiff Class in this case.

2. Attached hereto as exhibits are true and correct copies of the following documents in support of Plaintiffs' Motion for Contempt and Application for Appointment of a Receiver:

<b>Ex.</b>	<b>DOC Material</b>	<b>Filed under seal</b>
1	Directive 5006R-D, Use of Force	Yes
2	Directive 4521R-A, Suicide Prevention and Intervention	No
3	Directive 7504R-A, Suspension from Duty and/or Placement on Modified Assignment	Yes
4	Operations Order 01/23 re Tour Wands	Yes
5	Operations Order 11/17 re: Watch Tour System	Yes
6	Memorandum #14/23 re: Watch Tour Compliance/Discipline	Yes
7	Operations Order 24/16 re: Special Unit Assignments	Yes

8	Operations Order 25/19 re: Facility Response Teams	Yes
9	Teletype Order No. HQ-00944-0 re: Supervisor Tours and Responsibilities	Yes
10	Teletype Order No. HQ-02948-1 re: Supervisor Tours and Responsibilities	Yes
11	Memorandum from Louis Molina, Commissioner, to DOC leadership re: Decreasing Violence at RNDC, Feb. 22, 2022	Yes
12	Memorandum from Louis Molina, Commissioner, to Steve J. Martin, Monitor, re: NYC DOC RNDC Emergency Response Plan, Apr. 14, 2022	Yes
13	Memorandum from Christopher Miller, Deputy Commissioner, to Louis Molina, Commissioner re: GRVC Proposed Schedule, Oct. 11, 2022	Yes
14	Security Memo 067/21 re Slashing/Stabbings at RNDC	Yes
15	Index of NCU Security Audits as of September 25, 2023	No
16	Summaries of NCU Security Audits	No
17	Full NCU Audit – AMKC, Quad 12 Lower Review, December 22, 2021	Yes
18	Full NCU Audit - OBCC, 3 South and 3 Southwest Review, February 20, 2022	Yes
19	Full NCU Audit – GRVC, Building 10B Review, March 3, 2022	Yes
20	Full NCU Audit – NIC, Dorm 5 North, April 4, 2022	Yes
21	Full NCU Audit – OBCC, 2 Upper Review, May 5, 2022	Yes
22	Full NCU Audit – EMTC Building 4 Main Review, August 8, 2022	Yes
23	Full NCU Audit – RNDC 2 Upper South Review, February 21, 2023	Yes
24	Full NCU Audit – AMKC Quad Upper 13 Review, April 6, 2023	Yes
25	Full NCU Audit – GRVC 9A, May 7, 2023	Yes
26	Full NCU Audit – EMTC 9 Lower Review, June 25, 2023	Yes
27	Full NCU Audit – RNDC 3 Lower South, Aug. 15, 2023	Yes
28	Facility Responses to NCU Security Audits	Yes
29	Index of NCU's COD Assessments	Yes
30	NCU's COD Assessments from 2022 and 2023	Yes
31	Facility Responses to NCU's COD Assessments	Yes
32	Summary of Case Involving Assistant Commissioner	Yes
33	DOC 16 <sup>th</sup> Compliance Report + appendices	Yes
34	DOC Quarterly Emergency Lock-In Report, FY23 Quarter 4 (April 1st - June 30th), available at <a href="https://www.nyc.gov/assets/doc/downloads/pdf/FY23_Q4_Emergency_Lock-In%20Report.pdf">https://www.nyc.gov/assets/doc/downloads/pdf/FY23_Q4_Emergency_Lock-In%20Report.pdf</a> (last accessed Nov. 11, 2023)	No
<b>Ex.</b>	<b>UOF &amp; COD Incidents &amp; Related Materials</b>	<b>Filed Under Seal</b>
35	Excerpts from CMS Preliminary Review Reports for March, April, May, July, and August 2023	Yes

36	ID Packet for UOF 1069/23	Yes
37	ID Packet for UOF 1156/23	Yes
38	ID Packet for UOF 1703/23	Yes
39	Report for COD 1779/23	Yes
40	ID Report from ID Packet for UOF 2062/23	Yes
41	ID Packet for UOF 2893/23	Yes
42	ID Packet for UOF 2239/23	Yes
43-47	Intentionally omitted	
<b>Ex.</b>	<b>Correspondence</b>	<b>Filed Under Seal</b>
48	Letter dated June 25, 2019 from Plaintiffs' Counsel to Defendants re Noncompliance	No
49	Letter dated July 24, 2023 from Plaintiffs' Counsel to Defendants re Noncompliance	No
50	Letter dated August 23, 2023 from Defendants to Plaintiffs' Counsel regarding Noncompliance	No
<b>Ex.</b>	<b>External reports</b>	<b>Filed Under Seal</b>
51	NYC Health + Hospitals, Corr. Health Services, <i>CHS Injury Reporting: April 2023</i> (Apr. 25, 2023), <a href="https://www.nyc.gov/assets/boc/downloads/pdf/Reports/chs-doc/CHS-and-DOC-Joint-Injury-Report-April-2023.pdf">https://www.nyc.gov/assets/boc/downloads/pdf/Reports/chs-doc/CHS-and-DOC-Joint-Injury-Report-April-2023.pdf</a> .	No
52	N.Y. Att'y General, Office of Special Investigation (OSI) Third Annual Report (Oct. 1, 2023) <a href="https://ag.ny.gov/sites/default/files/2023-10/20230929f-third-ann-rpt.pdf">https://ag.ny.gov/sites/default/files/2023-10/20230929f-third-ann-rpt.pdf</a> .	No
53	N.Y.C. Board of Corr., <i>First Report and Recommendations on 2023 Deaths in New York City Department of Correction Custody</i> , City of N.Y. (Nov. 9, 2023), <a href="https://www.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/first_report_and_recommendations_on_2023_deaths_in_doc_custody_chs_comments.pdf">https://www.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/first_report_and_recommendations_on_2023_deaths_in_doc_custody_chs_comments.pdf</a> .	No
54	N.Y.C. Board of Corr., <i>February &amp; March 2022 Deaths in DOC Custody Report and Recommendations</i> (May 9, 2022), <a href="https://www.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/deaths-report-and-chs-response-202202-202203.pdf">https://www.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/deaths-report-and-chs-response-202202-202203.pdf</a> .	No
55	N.Y.C. Board of Corr., <i>Second Report and Recommendations on 2022 Deaths in New York City Department of Correction Custody</i> (Nov. 16, 2022), <a href="https://www.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/FINAL-Second-Report-and-Recommendations-on-2022-Deaths-in-DOC-Custody-and-CHS-response.pdf">https://www.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/FINAL-Second-Report-and-Recommendations-on-2022-Deaths-in-DOC-Custody-and-CHS-response.pdf</a> .	No

56	N.Y.C. Board of Corr., <i>Third Report and Recommendations on 2022 Deaths in New York City Department of Correction Custody</i> (Apr. 12, 2023), <a href="https://www.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/FINAL-Third-Report-and-Recommendations-on-2022-Deaths-in-DOC-Custody-and-CHS-response.pdf">https://www.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/FINAL-Third-Report-and-Recommendations-on-2022-Deaths-in-DOC-Custody-and-CHS-response.pdf</a> .	No
57	N.Y.C. Board of Corr., <i>Oct. 18, 2022 Public Meeting Minutes</i> (Oct. 18, 2022), <a href="https://www.nyc.gov/assets/boc/downloads/pdf/Meetings/2022/October/2022.10.18-Minutes-Final.pdf">https://www.nyc.gov/assets/boc/downloads/pdf/Meetings/2022/October/2022.10.18-Minutes-Final.pdf</a> .	No
58	N.Y.C. Comptroller, <i>Department of Correction FY 2023</i> (2023), <a href="https://comptroller.nyc.gov/reports/agency-watch-list/fy-2023/departments-of-correction-fy-2023/">https://comptroller.nyc.gov/reports/agency-watch-list/fy-2023/departments-of-correction-fy-2023/</a> .	No
82	N.Y.C. Comptroller, NYC Dep't of Correction FYs 2011-21 Operating Expenditures, Jail Population, Cost Per Incarcerated Person, Staffing Ratios, Performance Measure Outcomes, and Overtime (Dec. 2021), <a href="https://comptroller.nyc.gov/reports/nyc-department-of-correction/">https://comptroller.nyc.gov/reports/nyc-department-of-correction/</a> .	No
59	N.Y.C. Comptroller, McKinsey Contract Information, <a href="https://www.checkbooknyc.com/smart_search/citywide?search_term=mckinsey%21*agency_name=department%2Bof%2Bcorrection">checkbooknyc.com</a> , <a href="https://www.checkbooknyc.com/smart_search/citywide?search_term=mckinsey%21*agency_name=department%2Bof%2Bcorrection">https://www.checkbooknyc.com/smart_search/citywide?search_term=mckinsey%21*agency_name=department%2Bof%2Bcorrection</a> .	No
60	N.Y.C. Comptroller, KMPG Contract Information, <a href="https://www.checkbooknyc.com/smart_search/citywide?search_term=CT107220238804773&amp;page=1">checkbooknyc.com</a> , <a href="https://www.checkbooknyc.com/smart_search/citywide?search_term=CT107220238804773&amp;page=1">https://www.checkbooknyc.com/smart_search/citywide?search_term=CT107220238804773&amp;page=1</a> .	
61	<i>COBA v. City of New York</i> , 14 OCB2d 19 (BCB 2021)	No
62	<i>COBA v. City of New York</i> , 14 OCB2d 10 (BCB 2021)	No
63	<i>COBA v. City of New York</i> , 11 OCB2d 17 (BCB 2018)	No
83	<i>COBA v. City of New York</i> , 11 OCB2d 33 (BCB 2018)	No
<b>Ex.</b>	<b>News articles &amp; Other Material</b>	<b>Filed Under Seal</b>
64	Jan Ransom & Jonah E. Bromwich, <i>Tracking the Deaths in New York City's Jail System</i> , N.Y. Times (Oct. 19, 2023), <a href="https://www.nytimes.com/article/rikers-deaths-jail.html">https://www.nytimes.com/article/rikers-deaths-jail.html</a> .	No
65	Todd S. Purdum, <i>100 Jail Guards Reportedly Quit Emergency Unit</i> , N.Y. Times (Oct. 22, 1986), <a href="https://www.nytimes.com/1986/10/22/nyregion/100-jail-guards-reportedly-quit-emergency-unit.html">https://www.nytimes.com/1986/10/22/nyregion/100-jail-guards-reportedly-quit-emergency-unit.html</a> .	No
66	Graham Rayman, <i>New head of NYC Correction Department unit criticized for Rikers Island violence was accused in caught-on-video assault of Kalief Browder</i> , N.Y. Daily News (Apr. 20, 2023), <a href="https://www.nydailynews.com/new-york/nyc-crime/ny-rikers-emergency-service-unit-julio-colon-vaughn-grinnage-kalief-browder-20230420-2hxaiir6wjh5zdmwyft3iupwsy-story.html">https://www.nydailynews.com/new-york/nyc-crime/ny-rikers-emergency-service-unit-julio-colon-vaughn-grinnage-kalief-browder-20230420-2hxaiir6wjh5zdmwyft3iupwsy-story.html</a> .	No
67	Jennifer Gonnerman, <i>Exclusive Video: Violence Inside Rikers</i> , The New Yorker (Apr. 23, 2015), <a href="https://www.newyorker.com/news/news-desk/exclusive-video-violence-inside-rikers">https://www.newyorker.com/news/news-desk/exclusive-video-violence-inside-rikers</a> .	No

68	N.Y.C. Dep't of Corr., <i>Manuel J. Hernandez to Serve as Deputy Commissioner of the Investigation Division</i> , City of N.Y. Correction Dep't (May 9, 2022), <a href="https://www.nyc.gov/site/doc/media/manuel-hernandez.page">nyc.gov/site/doc/media/manuel-hernandez.page</a> .	No
69	N.Y.C. Board of Corr., <i>Statement on Loss of Access to Jail Video</i> , City of N.Y. (Jan. 18, 2023), <a href="https://www.nyc.gov/assets/boc/downloads/pdf/News/Statement-on-Video-Access-1.18.23.pdf">https://www.nyc.gov/assets/boc/downloads/pdf/News/Statement-on-Video-Access-1.18.23.pdf</a> .	No
70	Reuven Blau, <i>Correction Department Stops Sharing Timesheet Data with Oversight Board</i> , The City (Jul. 18, 2023), <a href="https://www.thecity.nyc/2023/7/18/23799621/correction-board-timesheet-data-molina">https://www.thecity.nyc/2023/7/18/23799621/correction-board-timesheet-data-molina</a> .	No
71	Reuven Blau, <i>City Jails No Longer Announcing Deaths Behind Bars, Angering Watchdogs</i> , The City (May 31, 2023), <a href="https://www.thecity.nyc/2023/5/31/23744666/correction-jails-not-announcing-deaths-rikers">https://www.thecity.nyc/2023/5/31/23744666/correction-jails-not-announcing-deaths-rikers</a> .	No
72	Graham Rayman, <i>NYC Correction Commissioner Louis Molina suspends captain working as investigator for not signing jail logbook (Exclusive)</i> , N.Y. Daily News (Jul. 4, 2023), <a href="https://www.nydailynews.com/new-york/nyc-crime/ny-rikers-correction-captain-investigator-suspended-20230704-trh34u7eizbhfmgmfrfkcvd2je-story.html">https://www.nydailynews.com/new-york/nyc-crime/ny-rikers-correction-captain-investigator-suspended-20230704-trh34u7eizbhfmgmfrfkcvd2je-story.html</a> .	No
73	The N.Y.C. Dep't of Corr., <i>DOC Appoints Five Assistant Commissioners of Operations</i> , City of N.Y. Correction Dep't (Apr. 24, 2022), <a href="https://www.nyc.gov/site/doc/media/five-assistant-commissioners.page">https://www.nyc.gov/site/doc/media/five-assistant-commissioners.page</a> .	No
74	Graham Rayman, <i>Five new Rikers Island jail wardens meant to bring in outside ideas — but three have years of NYC Correction Dept. work history</i> , N.Y. Daily News (Apr. 26, 2023), <a href="https://www.nydailynews.com/2023/04/26/five-new-rikers-island-jail-wardens-meant-to-bring-in-outside-ideas-but-three-have-years-of-nyc-correction-dept-work-history/">https://www.nydailynews.com/2023/04/26/five-new-rikers-island-jail-wardens-meant-to-bring-in-outside-ideas-but-three-have-years-of-nyc-correction-dept-work-history/</a> .	No
75	Jan Ransom, <i>Jail Unions Gain a Powerful Supporter: The New Mayor</i> , N.Y. Times (Jan. 14, 2022), <a href="https://www.nytimes.com/2022/01/14/nyregion/rikers-jail-unions-eric-adams.html">https://www.nytimes.com/2022/01/14/nyregion/rikers-jail-unions-eric-adams.html</a>	No
76	Nolan Hicks & Craig McCarthy, <i>Eric Adams Defends Firing of Top Internal Jails Cop After Union Pressure</i> , N.Y. Post (Jan. 5, 2022), <a href="https://nypost.com/2022/01/05/adams-defends-firing-of-top-internal-jails-cop-after-union-pressure/">https://nypost.com/2022/01/05/adams-defends-firing-of-top-internal-jails-cop-after-union-pressure/</a>	No
77	Eric Lach, <i>What is Eric Adams's Plan for the Rikers Island Crisis?</i> , New Yorker (Jan. 23, 2022), <a href="https://www.newyorker.com/news/our-local-correspondents/whats-eric-adamss-plan-for-the-rikers-island-crisis">https://www.newyorker.com/news/our-local-correspondents/whats-eric-adamss-plan-for-the-rikers-island-crisis</a>	No
78	Letter dated Jan. 4, 2022 on COBA and CCA Letterhead addressed to COBA and CCA Members	No
79	COBA (@NYCCOBA1), Twitter (Jan. 4, 2022, 7:39 P.M.), <a href="https://twitter.com/NYCCOBA1/status/1478526587238768641">https://twitter.com/NYCCOBA1/status/1478526587238768641</a>	No
80	Who's Next? Image	No

81	Video of COBA Leader	No
<b>Ex.</b>	<b>Declarations</b>	<b>Filed Under Seal</b>
84	Declaration of Carlton James dated November 10, 2023	No
85	Declaration of Joshua Gonzalez dated November 9, 2023	No
86	Declaration of Andre Brown dated November 9, 2023	No
87	Declaration of Joseph Myers dated November 9, 2023	No
88	Declaration of James Bradley dated November 9, 2023	No
89	Declaration of Michael Jacobson dated November 15, 2023	No
90	Declaration of Gilson Garcia dated November 9, 2023	No

3. While Plaintiffs are filing Exhibits 35, 36, 37, 38, 39, 40, 41, and 42 under seal pursuant to the operative protective order in this matter, Plaintiffs are concurrently filing a letter motion seeking permission to file these exhibits publicly with minimal redactions.

4. The following documents have been assigned an exhibit number, are incorporated as exhibits to my declaration, and are available at the docket entries below in the docket for this matter.

<b>Ex.</b>	<b>Hearing Transcripts</b>	<b>Dkt.</b>
91	Transcript of Aug. 10, 2023 Status Conference	566
92	Transcript of June 13, 2023 Status Conference	554
93	Transcript of Apr. 27, 2023 Status Conference	530
94	Transcript of Nov. 17, 2022 Status Conference	490
95	Transcript of May 24, 2022 Status Conference	460
96	Transcript of Apr. 26, 2022 Status Conference	456
97	Transcript of Dec. 2, 2021 Status Conference	433
98	Transcript of Sept. 24, 2021 Status Conference	407
<b>Ex.</b>	<b>Monitor's Filings</b>	<b>Dkt.</b>
99	Declaration of Steve J. Martin dated Nov. 9, 2023, and exhibits thereto	596
100	First Report of the <i>Nunez</i> Independent Monitor	269
101	Second Report of the <i>Nunez</i> Independent Monitor	291
102	Third Report of the <i>Nunez</i> Independent Monitor	295
103	Fourth Report of the <i>Nunez</i> Independent Monitor	305

104	Special Report of the <i>Nunez</i> Independent Monitor re: Locking Mechanisms at RNDC	309
105	Fifth Report of the <i>Nunez</i> Independent Monitor	311
106	Sixth Report of the <i>Nunez</i> Independent Monitor	317
107	Letter from the Office of the Monitor to the Court re: Update on Operation of Horizon Juvenile Center	318
108	Letter from the Office of the Monitor to the Court re: Update on Operation of Horizon Juvenile Center	320
109	Letter from the Office of the Monitor to the Court re: Update on Operation of Horizon Juvenile Center	325
110	Seventh Report of the <i>Nunez</i> Independent Monitor	327
111	Eighth Report of the <i>Nunez</i> Independent Monitor	332
112	Letter from the Office of the Monitor to the Court (re: COVID-19 Update)	338
113	Ninth Report of the <i>Nunez</i> Independent Monitor	341
114	Tenth Report of the <i>Nunez</i> Independent Monitor	360
115	First Remedial Order Report of the <i>Nunez</i> Independent Monitor	365
116	Eleventh Report of the <i>Nunez</i> Independent Monitor	368
117	Second Remedial Order Report of the <i>Nunez</i> Independent Monitor	373
118	Status Report Letter from the Office of the Monitor to the Court	378
119	Status Report Letter from the Office of the Monitor to the Court	380
120	Status Report Letter from the Office of the Monitor to the Court	387
121	Letter from the Office of the Monitor to the Court re: Use of Force Discipline	399
122	Status Report Letter from the Office of the Monitor to the Court	403
123	Monitor's First Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center (HOJC)	409
124	Status Report Letter from the Office of the Monitor to the Court	420
125	Status Report Letter from the Office of the Monitor to the Court	429
126	Twelfth Report of the <i>Nunez</i> Independent Monitor	431
127	Third Remedial Order Report of the <i>Nunez</i> Independent Monitor	435
128	Special Report of the <i>Nunez</i> Independent Monitor	438
129	Status Report of the <i>Nunez</i> Independent Monitor	445
130	Letter from the Office of the Monitor to the Court re: Monitoring Team's Recommendations	448
131	Monitor's Second Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center (HOJC)	452
132	Letter from the Office of the Monitor to the Court re: City & DOC's Action Plan	454
133	Letter from the Office of the Monitor to the Court re: Updated Action Plan	462



134	Status Report of the <i>Nunez</i> Independent Monitor	467
135	Monitor's Third Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center	471
136	Second Status Report on DOC's Action Plan by the <i>Nunez</i> Independent Monitor	472
137	Letter from the Office of the Monitor to the Court re: Proposed Next Steps	475
138	Special Report on Intake by the <i>Nunez</i> Independent Monitor	504
139	Status Report on DOC's Action Plan by the <i>Nunez</i> Independent Monitor	517
140	Status Report on DOC's Action Plan by the <i>Nunez</i> Independent Monitor	520
141	Monitor's Fourth Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center	525
142	Special Report of the <i>Nunez</i> Independent Monitor	533
143	Letter from the Office of the Monitor to the Court re: Update on Monitor's May 26 <sup>th</sup> Report	537
144	Special Report by the <i>Nunez</i> Independent Monitor	541
145	Letter from the Office of the Monitor to the Court re: Update for June 13 <sup>th</sup> Emergency Conference	544
146	Letter from the Office of the Monitor to the Court re: Monitor's June 12 <sup>th</sup> Proposed Order	546
147	Special Report by the <i>Nunez</i> Independent Monitor	557
148	Status Report by the <i>Nunez</i> Independent Monitor	561
149	Status Report by the <i>Nunez</i> Independent Monitor	581
150	Status Report by the <i>Nunez</i> Independent Monitor	595
151	Letter from the Office of the Monitor to the Court re: Update regarding ARHU	599

5. I certify that counsel for the Plaintiff Class has used our best efforts to resolve informally the matters raised in this Motion. Counsel for the Plaintiff Class sent Defendants a notice of non-compliance on July 24, 2023. Defendants responded on August 23, 2023, disputing that they were in non-compliance with the identified provisions of the Consent Judgment and other Court orders. Counsel continued to engage in good faith negotiations as required by ¶ XXI.2 of the Consent Judgment, including by meeting on September 7, 2023 and September 8, 2023, but have not been able to resolve the dispute regarding non-compliance. *See* Dkt. 570.



I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 17, 2023  
New York, New York

/s/ Mary Lynne Werlwas  
Mary Lynne Werlwas